

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

April 18, 2002

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, April 18, 2002, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Jerry Michaelis, Chair; Bud Hentzen, Vice-Chair; Ron Marnell; Don Anderson; Bill Johnson; Harold Warner; Frank Garofalo; Kerry Coulter; James Barfield; John McKay, Jr. Elizabeth Bishop. Ray Warren; Dorman Blake and David Wells were not present. Staff members present were: Marvin S. Krout, Secretary; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Donna Goltry, Principal Planner; Jess McNeely Associate Planner; Jamsheed Mehta, Chief Planner, Transportation Planning and Rose Simmering, Recording Secretary. Dale Miller, Assistant Secretary was not present.

1. Approval of the MAPC minutes for April 4, 2002.

MOTION: That the minutes for April 4, 2002 be approved.

MICHAELIS moved, **HENTZEN** seconded the motion, and it carried (8-0).

2. Consideration of Subdivision Committee Recommendations

Items 2-1 through 2-5 taken in one motion

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARNER moved, **ANDERSON** seconded the motion, and it carried (8-0).

2/1. SUB2002-12 – Final Plat of GREAT PLAINS BUSINESS PARK THIRD ADDITION, generally located east of Oliver, north of K-96.

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. As the drainage plan indicates drainage directed onto K-96, a letter shall be provided from KDOT indicating their agreement to accept such drainage.
- E. The Applicant shall guarantee the paving of the proposed street to the business/industrial street standard.
- F. The **City Fire Department/GIS** needs to comment on the plat's street names. **The street names are approved.**
- G. The Applicant shall provide documentation of the location of the easements listed in the platting binder. If located on this site, these easements shall be shown on the final plat tracing or verification provided that they are off-site or have been released or adequately covered by other easements. If applicable, proper reference to their vacation by this plat shall be made in the surveyor's or platlor's text.
- H. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- I. **County Surveying** has advised that the utility easement along north line of lot 1, Block 2 needs to be located with respect to north property line.
- J. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet

with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARNER moved, **ANDERSON** seconded the motion, and it carried (8-0).

2/2. SUB2002-19 – Final Plat of ANGEL'S LANDING ADDITION, generally located north of 93rd Street North, on the east side of Oliver Street.

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Rural Water District No. 2. The applicant shall contact this water district to determine the ability of this property being platted to connect to their water line and submit a letter to MAPD and **County Code Enforcement** from the water district to that effect.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The applicant shall contact NRCS/Soil Conservation District concerning removal or modification of terraces on site. The drainage plan has been approved.**
- E. The Applicant should provide a 35-ft contingent dedication of street right-of-way along the south property line, extending to the floodway reserve in order to provide potential street connection to adjoining properties. On the final plat, the contingent dedication of right-of-way needs to be referenced in the plat's text.
The contingent street dedication has been provided as requested.
- F. **County Engineering** has required complete access control except for the south 35 feet.
- G. The plat's text shall state that the access opening along Oliver would be required to be closed when the new street is constructed.
- H. The signature line for the County Commissioners Chairman needs to reference "Ben Sciortino".
- I. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **The Subdivision Committee has approved the modification.**
- J. **Sedgwick County Fire Department** recommends that the access drive to the structure needs to be installed according to fire department specifications prior to construction of the building.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARNER moved, **ANDERSON** seconded the motion, and it carried (8-0).

2/3. SUB2002-22 – Final Plat of HIDDEN GLEN ADDITION, generally located west of Hydraulic, between 44th and 45th Street South.

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. A guarantee is required.**
- D. **City/Traffic Engineering** needs to comment on the substandard right-of-way width platted for 44th St. South. **Traffic Engineering has approved the 44-ft street right-of-way. The remaining right-of-way will be dedicated with the abutting property to the south upon its development.**
- E. The applicant intends to plat 5-ft interior side yard setbacks for all of the lots. A plat note to that effect shall be included on the final plat tracing. The Zoning Code allows 5-ft side yards on lots up to 6,000 sq. ft.; however 6 feet is required for larger lots. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- F. The 30-ft right-of-way north of Lots 5 and 6, Block D, adjacent to the north line of the plat, is not open and should be vacated, since the south half of this street is not being dedicated by this plat. The Applicant shall contact the property owner to the north to attempt to have this half -street right-of-way vacated.
- G. The applicant shall guarantee the paving of the internal streets, in addition to 44th St., 45th St. (half -street petition) and Lulu (majority petition) . For the narrow public 32-foot streets, this guarantee shall be for the 29-foot paving standard. For the 60-ft streets, the guarantee shall be for a 31-ft paving standard.
- H. The paving guarantee shall also provide for sidewalks on at least one side of 44th St. and Greenwood.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements",

a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.

- L. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- M. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- N. The Subdivision Regulations prohibit the platting of double frontage lots for single-family dwellings, unless abutting an arterial. MAPD recommends a 5-ft reserve to be platted along the rear of Lots 19-27, Block B. **In lieu of the reserve, the applicant has proposed to plat complete access control along 45th St. South. The restrictive covenant shall state that the Homeowner's Association shall maintain the parkway area between the rear property lines of Lots 19-27, Block B and the driving surface.**
- O. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- W. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- X. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARNER moved, **ANDERSON** seconded the motion, and it carried (8-0).

2/4. SUB2002-32 – One-Step Final Plat of PROMISED LAND ADDITION, generally located on the west side of Broadway and on the north side of 93rd Street North.

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. **County Code Enforcement** should also indicate if any special conditions are required due to a City of Wichita community well located one mile to the north.
- B. The site is currently located within the Rural Water District No. 2. The applicant shall contact this water district to determine the ability of this property being platted to connect to their water line and submit a letter to MAPD and **County Code Enforcement** from the water district to that effect.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- D. **County Engineering** needs to comment on the status of the applicant's drainage plan. *The drainage plan is approved. Minimum pad elevations needed to be shown on the plat. A floodway reserve needs to be shown along the east property line. The standard floodway language needs to be referenced in the plat's text.*
- E. **County Engineering** needs to comment on the access controls. The plat proposes two access openings along 93rd St. North. *County Engineering has approved one access opening.*
- F. The Applicant is advised that if platted, the building setbacks must be 35 feet to conform with the Zoning setback standard for County section line roads.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. This plat is located within MAPC's platting jurisdiction and the Valley Center signature blocks may be deleted.
- I. **County Surveying** has advised that the legal description needs to be corrected.
- J. **County Surveying** has advised that the plat does not close.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARNER moved, **ANDERSON** seconded the motion, and it carried (8-0).

- 2/5. **DED2002-13** - Dedication of Utility Easement, from Larry G. Underhill, President of T.W.G., Inc., generally located on the southwest corner of Seneca and Crawford.

OWNER/APPLICANT: T.W.G., Inc., C/O Larry Underhill, President, 10300 W. Central, Wichita, KS 67212

AGENT/ENGINEER: PEC, P.A., C/O Gary Wiley, 303 S. Topeka, Wichita, KS 67202

LEGAL DESCRIPTION: The north 2 feet of the south 10 feet of Lots 10 and 11, Block 7, Westway Park Addition.

PURPOSE OF DEDICATION: This Dedication is a requirement of Zoning Case No. ZON 2001-55, and is being dedicated for construction and maintenance of public utilities.

Planning Staff recommends that the Dedication be accepted.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARNER moved, **ANDERSON** seconded the motion, and it carried (8-0).

2/6. SUB2002-26- Modification of Lot Width to Depth Ratio for Woodland Hillside Addition.

METROPOLITAN AREA PLANNING DEPARTMENT

AGENDA ITEM NO. 2-6

DATE: April 18, 2002

TO: Subdivision Committee

FROM: Neil Strahl

SUBJECT: Modification of Lot Width to Depth Ratio for Woodland Hills Addition
(Lot Split No. SUB 2002-26).

This site is located on the north side of Central, west of 151st Street West and encompasses the division of Lots 9 and 10 into 2 lots.

The required lot width to depth ratio of 2.5 to 1 is exceeded by Parcel B and a modification from the MAPC is requested.

NEIL STRAHL Planning Staff, presented the staff report. Staff recommends approval subject to contingent right-of-way dedication for future north-south street. He passed out a set of drawings on how the street might look that were prepared by Commissioner Warren, who could not attend today.

WARNER Contingent is up to staff?

MCKAY Something to the West?

PHIL MEYER, agent, We are opposed to contingent street right of way. Planning Commission approved riding arena on this property, and they want to construct home on Parcel B. Their daughter will live there and work the riding area. In the future, the street-right-of-way would be necessary only if the property is further subdivided. Approve Lot Depth Ratio is what we want.

MCKAY What are the Subdivision Committee comments?

WARNER Three of the Committee saw a need and three didn't.

JOHNSON Staff was in complete agreement with the applicant until the issue was raised by Commissioner Warren.

KROUT This case got by me without a lot of discussion. If some reason this dedication does not work, they will have to come back with something else. This is in the growth area, close to water and sewer services, and the Subdivision Regulations state that this is a requirement. You have an obligation to plan for the future.

BARFIELD If we deny, can he appeal to the County Commission?

KROUT He can come back and re-file any time, but this is the end of the line on appeals.

BISHOP In at 1:45 p.m.

MARNELL Spoke in favor of requiring the contingent street dedication

MOTION: Approve the lot split as recommended by staff.

BARFIELD moved, **COULTER** seconded the motion, and it failed to carry (5-6; **ANDERSON, HENTZEN, MICHAELIS, WARNER, JOHNSON, MCKAY** voting No).

MOTION: To approve as submitted.

ANDERSON moved, **HENTZEN** seconded the motion, and it carried (6-5; **BARFIELD, COULTER BISHOP, GAROFALO, MARNELL** Voting No).

3/1. VAC2002-09 – Request to vacate a portion of two 10-foot utility easements.

OWNER/APPLICANT: 1st National Bank of Conway Springs c/o Chris Anderson

AGENT: Baughman Company, PA c/o Russ Ewy

LEGAL DESCRIPTION: That part of Lot 1, Blk A, Samra 2nd Add, Sedgwick County, Kansas described as beginning at the NW corner of said Lot 1; thence S 0d2'22" E, a distance 27.06 feet; thence N 45d4'54" E, a distance of 14.11 feet; thence N 0d2'22" W, a distance of 7.06 feet; thence S 89d47'50" E, a distance of 7.06 feet, thence N 45d4'54" E, a distance of 14.11 feet; thence N 89d47'50" W, a distance of 27.06 feet to the point of beginning (containing 341.13 sq-ft or 0.0078 acres)

LOCATION: Generally located northeast of the E Central Ave – N Greenwich Rd intersection.

REASON FOR REQUEST: The applicant proposes building a communication tower.

CURRENT ZONING: Subject property is zoned LC Limited Commercial. Properties north and east are zoned LC Limited Commercial. Properties on the south are zoned LC Limited Commercial and LI Limited Industrial. Property on the west is zoned GC General Commercial.

The applicant proposes vacating the portions (see Exhibit A) of the two 10-ft utility easements that meet in the northwest corner of Lot 1, Blk A, Samra 2nd Add. The applicant proposes to build a communication tower. The applicant proposes, per Exhibit A, to dedicate a new utility easement.

Planning Staff recommends the vacation request with a dedication of a replacement easement, to be sent to Staff for recording with the Register of Deeds.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 28, 2002, which was at least 20 days prior to this public hearing.
2. That private rights will not be injured or endangered by the vacation of the above-described portion of the platted easements, and the public will not suffer loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be approved.

B. Therefore, the vacation of the portion of the platted easements described in the petition should be approved subject to the following conditions:

- (1) Vacate only that portion of the platted 10-ft easements as described in the submitted legal description and shown on the submitted site plan and provide Staff with dedication of replacement easement for recording with Register of Deeds.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

COULTER moved, **ANDERSON** seconded the motion, and it carried (11-0).

4a. CUP2002-07- Laham Holding Co., L.L.C., Legacy Park Group, LLC, and North Point Development (Owner); P.E.C., P.A., c/o Rob Hartman (Agent) request transfer of a portion of Parcels from DP-201 Wilson Estates Residential C.U.P 200 Wilson Property N.E. Commercial C.U.P. and;

A Tract Of Land Located In Legacy Park Wilson Estates Addition To Wichita, Sedgwick County, Kansas; More Particularly Described As Follows: Lot 1 The West 12 Feet Of Lot 2 And Lot 4, Block 1 And Reserve "D" Of Legacy Park Wilson Estates Addition To Wichita, Sedgwick County, Kansas Except; Beginning At The SW Corner Of Wilson Retirement Addition Thence N 89 Degrees 10'54" E, 319.55 Feet, Thence S 7 Degrees 20' 48" E, 322.40 Feet; Thence S 51 Degrees 05'33"E, 226.16 Feet To The NE Corner Of Lot 6, Block 1 Of Said Addition, Thence S 89 Degrees 10'53" W Along The North Line Of Said Lot 6, 531.04 Feet To The West Line Of Said Lot 1, Thence N 0 Degrees 42'31" W Along The West Line Of Said Lot 1, 464.86 Feet To The Point Of Beginning. Generally Located South Of 21st Street North And West Of Webb Road. Generally located South of 21st Street North and west of Webb Road.

4b. ZON2002-15 – Laham Holding Co., L.L.C., Legacy Park Group, LLC, and North Point Development (owner); P.E.C., P.A., c/o Rob Hartman (agent) zone change from "GO" General Office to "LC" Limited Commercial on property described as:

A Tract Of Land Located In Lot 1, Block 1, Legacy Park Wilson Estates Addition To Wichita, Sedgwick County, Kansas; More Particularly Described As Follows: Beginning At The S.E. Corner Of Lot 4, Block 1 Of Said Addition; Thence S 00 Degrees 54'41"E, Along The Most Easterly Line Of Lot 1 A Distance Of 60.00 Feet; Thence S 89 Degrees 05'19"W, Along The South Line Of Said Lot 1, 290.00 Feet; Thence Continuing, Along The South Line Of Said Lot 1, N 77 Degrees 54'49"W, 133.39 Feet; Thence N 00 Degrees 54'41"W, 240.00 Feet; Thence N 87 Degrees 05'24"W, 5.00 Feet; Thence N 00 Degrees 54'41"W, 100.00 Feet; Thence N 48 Degrees 49'50"W, 47.21 Feet; Thence N 00 Degrees 54'41"W, 65.00 Feet; Thence N 89 Degrees 32'20"E, 65.00 Feet To The S.W. Corner Of Lot 2, Block 1 Of Said Addition; Thence Along The South Line Of Lot 2, N 89 Degrees 05'19"E, 105.00 Feet To The N.W. Corner Of Lot 4, Block 1 Of Said Addition; Thence S 00 Degrees 54'41"E Along The West Line Of Lot 4, 416.46 Feet To The S.W. Corner Of Lot 4; Thence N 89 Degrees 05'19"E, Along The South Line Of Lot 4, 139.99 Feet; Thence N 77 Degrees 46'42"E, 50.99 Feet; Thence N 89 Degrees 05'19"E, 100.00 Feet To The Point Of Beginning. Said Area Containing 1.8 Acres More Or Less. Generally located South of 21st Street North and west of Webb Road.

BACKGROUND: The applicant is requesting that approximately 13 acres from Parcels 8, 8B and 8C of DP-201 Wilson Estates Residential C.U.P. be transferred to DP-200 Wilson Estates N.E. Commercial C.U.P. Although office uses were permitted in these parcels by DP-201 (the residential C.U.P.), the applicant would like to consolidate the commercial/office tracts into DP-200 to make a clearer division between the residential and commercial tracts, and to add signage on Webb Road.

The requested "LC" Limited Commercial zoning is a buffer strip currently zoned "GO" General Office along the southern edge that was intended to separate commercial uses from the Clubhouse Villas residential development to the south. Additional "LC" is requested on the west of Parcels 2 and 3 of DP-200.

Currently, DP-200, known as Legacy Park, is developed with a bank (Prairie State Bank) on Parcel 1. A slight reduction in size of Parcel 1 from 1.10 to 1.05 acres is shown to correct a land conveyance from Prairie State Bank to Laham Holding. Parcel 2 is developed with a Walgreens. Although the C.U.P. drawing shows some other changes on Parcels 1 and 2 (Parcel 1 has a reduction of the interior west setback from 35 feet to 15 feet and Parcel 2 has an increase in the west setback line from five to 15 feet), these changes are being removed because the owners of the parcels are not included as signatories in the application.

Parcel 3 of DP-200 is currently undeveloped. The amendment proposes to split Parcel 3 in an east/west direction and recombine it with an additional 1.8 acres from Parcel 8 of DP-201 currently zoned "GO" General Office. The reconfigured Parcel 3 is 1.37 acres in size and is proposed for "LC" Limited Commercial zoning. It is located west of Walgreens with a narrow tail of property extending to Webb Road. Proposed uses are restaurant, retail, office and personal service uses. Four currently allowed uses are removed: small animal clinics, tire, battery and accessory stores, hardware, and furniture stores. Parcel 12 is located along the southern property line of the commercial development, adjoining a residential development, Clubhouse Villas. "LC" zoning is requested for all of Parcel 12, including the 60-foot buffer strip and possible access drive that currently separates the commercial uses from Clubhouse Villas. Proposed uses are the same as for Parcel 3, but the proposed floor area is greater (0.30 for Parcel 12 and 0.167 for Parcel 3). The setback along the south property line is 35 feet, the minimum required for commercial C.U.P.s with a common property line with residential zoning.

The remaining land to be added to DP-200 consists of eight office parcels. Three are already developed: Parcel 5 (1.06 acres, "FAR" floor area ratio 0.126) is developed with a dentist office; Parcel 6 (3.12 acres, FAR 0.199) is occupied by Wichita Clinic; and Parcel 11 (1.02 acres, 0.125) is being developed with a chiropractic office. The undeveloped parcels are: Parcel 4 (1.07 acres, FAR 0.214), Parcel 7 (1.11 acres, FAR 0.196), Parcel 8 (1.03 acre, FAR 0.179), Parcel 9 (0.68 acre, FAR 0.203), and Parcel 10 (0.92 acre, FAR 0.231). Permitted uses for "GO" tracts are general office and medical service; all residential uses previously permitted on this property are excluded.

Setbacks have changed in two ways. First, because of exclusion of residential uses, the previous setbacks that were based primarily on residential development are eliminated. Second, the property fronting onto 21st Street North currently had a setback for office uses of 90 feet for one-story offices and 200 feet for two-story offices, but the 200 feet for two-story use is eliminated (affects Parcel 4). The C.U.P. drawing showed a 25-foot setback on the southern office parcels, but the applicant has agreed to increase these to 35 feet, which is the minimum requirement of nonresidential C.U.P.s.

Signage is relatively restrictive in terms of the amount requested per parcel, although no monument sign height is specified. There are no restrictions proposed by the C.U.P. for building signage, and the typical spacing of 150 for freestanding signs is reduced to 75 feet on Webb.

The applicant has agreed to additional restrictions on the C.U.P. First, drive-in and drive-through restaurants and uses with overhead doors would be prohibited. Buildings on Parcels 9-12 would be limited to one-story in height. Landscape buffering would be provided at a rate of 1.5 times the requirements of the Landscape Ordinance and all would be coniferous. The developer did ask for flexibility to spread landscaping on both the north and south sides of the screening wall between Clubhouse Villas at Wilson Estates. Also, the screening wall would be constructed as commercial/office development occurs. Architecture would be consistent with that at Bradley Fair and Legacy Park, but with the possibility of adding a brick as an additional accent material. All building sides would be finished with the same architectural materials and any rooftop mechanical units would be screened from view around the whole building.

The surrounding area includes Tallgrass residential areas to the north of 21st Street North and a new shopping center, Cambridge Market, being developed east of Webb Road. A vacant tract directly west of the application area is being discussed for residential use, probably twin homes. The next tract of land to the west is under development with patio homes and single-family homes. Clubhouse Villas, a townhouse condominium development, is located directly south of the application area. Additionally, the vacant tract south of Clubhouse Villas is being requested for creation of another C.U.P. for office development, DP-260 Wilson Estates Medical Park, associated with a zone change from "SF-5" Single-Family to "GO" General Office.

CASE HISTORY: The property is platted as Legacy Park Wilson Estates Addition, recorded June 27, 2000. DP-200 and DP-201 were both approved November 5, 1991, and were amended in January 2000.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"; "LC"	Residential (Tallgrass)
EAST:	"LC"; "B"	Shopping center, offices
SOUTH:	"SF-5"	Townhouse condos (Clubhouse Villas), vacant
WEST:	"GO"; "B"; "SF-5"	Assisted living, single-family, patio homes, vacant

PUBLIC SERVICES: The site has access from 21st Street North and Webb Road. Both are paved with left-turn lanes and two through lanes at the intersection. Access locations on the proposed C.U.P. correspond to the same locations as shown on the existing C.U.P.s (DP-200 and DP-201). Average traffic (ADTs) in 2000 was 12,276 cars/day for the west leg of the 21st/Webb intersection and 13,000 to 14,500 for the north and south legs of the intersection. Traffic is projected to increase to 19,700 ATDs on the west leg, 26,000-28,000 for the south leg, and 24,000-26,000 for the north leg in 2030.

Normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the *1999 Update to the Comprehensive Plan* identifies the general location as appropriate for "office and commercial" development, which makes the requested C.U.P. amendment and zone change generally in conformance with the *Comprehensive Plan*. A more detailed review of goals and locational guidelines prescribes that proposed development should minimize detrimental impacts on adjacent residential use. The **Commercial/Office Objective III.B** of the *1999 Update* seeks to "develop future retail/commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses". This is reiterated in the **Residential Objective/Strategy II.B.4** for higher intensity land uses near residential that recommends plan review "to ensure that building placement and height, circulation, signage, screening and lighting for non-residential land uses do not adversely impact residential areas".

Commercial locational guidelines stipulate that commercial development should require site design features to limit noise, lighting, and other aspects of commercial development to not adversely impact surrounding residential areas. The office locational guidelines recommend that low-density offices may be placed as a transitional land use between residential uses and higher intensity uses.

RECOMMENDATION:

The site design features of this proposed amendment affords somewhat less protection for the residential uses to the south than in place to benefit the residential development north of 21st Street North (Tallgrass). This gap has been narrowed by requirements the applicant has agreed to add to the C.U.P. in terms of eliminating some of the more intense commercial uses (drive-in restaurants, uses with overhead doors), increasing setbacks to 35 feet for the office parcels, and requiring one-story buildings on the southern parcels. The requested additional conditions are designed to improve the compatibility of development with the residential uses to the south.

Based upon these recommendations and the information available prior to the public hearing, staff recommends the request be **APPROVED** subject to replatting within one year and subject to the following conditions:

(see Addendum report below)

This recommendation is based on the following findings:

- The zoning, uses and character of the neighborhood:** The area to the east of Webb Road is developing with commercial and office uses, zoned "LC" Limited Commercial, and with apartments farther to the east. The land to the north (Tallgrass) is zoned "LC" at the corner but used for utility purposes and zoned "SF-5" on the majority of the tract with residential development. The property to the south is being developed with residential uses, including Clubhouse Villas at Wilson Estates, and is zoned "SF-5" Single-Family. The property to the west includes a small tract zoned "GO" that is vacant and likely to be developed with low to moderate density residential uses or more single-family and patio residential development on property zoned "SF-5".
- The suitability of the subject property for the uses to which it has been restricted:** The site is already approved for "LC" or "GO" uses and could be developed as approved.
- Extent to which removal of the restrictions will detrimentally affect nearby property:** As proposed by the applicant, the provisions on the southern property line would be somewhat less stringent than provisions already in place governing the northern tier of parcels along 21st Street North primarily because of lesser width of setbacks. The one-story height limitations, additional landscaping, restriction of uses, and increased architectural requirements will help mitigate impacts on Clubhouse Villas at Wilson Estates.
- Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies:** The project is generally in conformance with the Land Use Guide of the adopted Comprehensive Plan.
- Length of time the land has been vacant as currently zoned:** Development has been proceeding at a relatively rapid pace on both C.U.P.s (DP-200 and DP-201) since these C.U.P.s were amended in 2000.
- Impact of the proposed development on community facilities:** This development will add some additional traffic to Webb Road and 21st Street North. However, access controls and traffic improvements already incorporated into these C.U.P.s should mitigate these impacts.

ADDENDUM

The "Recommendation" section of the Staff Report has been revised as follows:

RECOMMENDATION:

The site design features of this proposed amendment affords somewhat less protection for the residential uses to the south than in place to benefit the residential development north of 21st Street North (Tallgrass). This gap has been narrowed by requirements the applicant has agreed to add to the C.U.P in terms of eliminating some of the more intense commercial uses (drive-in restaurants, uses with overhead doors), increasing setbacks to 35 feet for the office parcels, and requiring one-story buildings on the southern parcels. The requested additional conditions are designed to improve the compatibility of development with the residential uses to the south.

Based upon these recommendations and the information available prior to the public hearing, staff recommends the request be APPROVED subject to replatting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2002-000015) to "LC" Limited Commercial, subject to replatting of the property within one year.
- B. APPROVE Amendment #2 to the Community Unit Plan (DP-200), subject to the following conditions:
 1. Complete administrative adjustment to DP-201 to correspond with property transferred into DP-200. Vacate right-of-way of the drive located between Parcels 5 and 6 to make it a private drive as part of the replatting.
 2. Revise the C.U.P. to incorporate the conditions that have been accepted:
 - a. Drive-in and drive-through restaurants and uses with overhead doors shall be prohibited.
 - b. Buildings on Parcels ~~7-9~~ 12 shall be limited to one-story in height.
 - c. Landscape buffering would be provided at a rate of 1.5 times the requirements of the Landscape Ordinance where on "LC" zoned property, and all would be coniferous, with flexibility to spread a portion of landscaping on both the north and south sides of the screening wall between Clubhouse Villas at Wilson Estates.
 - d. The screening wall along the southern and western property line shall be installed at the time of commercial/office development occurs.
 - e. All buildings shall have similar architectural design and exterior building materials consistent with Bradley Fair/Wilson Estates Office Park and Legacy Park. Buildings shall be constructed of a combination of two building materials, synthetic plaster finish and/or stucco and precast panels (individual cast stone appearance). Neither material may be used exclusively as the exterior building finish but must be used in conjunction with one another. Design precedence has been established by the Bradley Fair Shopping Center/Wilson Estates Office Park and Legacy Park, and therefore the acceptable color range for the exterior materials are the same color range for the exterior materials are the same colors as those centers. Other accent colors and materials may be acceptable if they are used in conjunction with the predominant materials, but not as a replacement. Metal shall not be permitted as a predominant exterior building finish. The predominant roof material shall be red tile (except Parcel 1) when the roofing material is visible. The same predominant exterior building material (façade) shall be used on all building elevations. Architectural design and exterior building materials shall be reviewed and approved by the Planning Director prior to the issuance of building permits. Exterior utility boxes, mechanical equipment, etc. shall be screened according to the acceptable color range as approved by the Planning Director. Any rooftop mechanical units would be screened from view around the whole building.
 3. Increase the building setback on the southern property line to 50 feet for Parcel 12, or allow a reduction of the setback to 35 feet if there is no service drive or openings along the south behind wall of the retail building.
 4. The height of coniferous trees shall be a minimum of eight feet at time of installation.
 5. All wall signs are to be individual letters, black matte in color, in cast aluminum, or fabricated aluminum reverse channel type with either indirect (ground lighted) or halo-lighted illumination and limited in size to 32 square feet per tenant. Buildings having a minimum of 15,000 square feet and exceeding a 150 feet setback from either Webb Road or 21st Street North may be allowed 64 square feet of wall sign, providing only one sign is used for the entire building, with a maximum of 24" tall letters. The maximum height for this sign shall be 30 feet. This criteria does not eliminate the use of "building identification" type signage. No building and/or wall signs shall be permitted on the southern-facing and western facades of all structures on Parcels 7-12, except for small identification signs as described in Section 24.04.190.3 of the Sign Code.
 6. All dumpsters shall be screened from ground level view with materials of same type as the predominant building materials.
 7. Light fixtures shall be of uniform design on all parcels and not exceed 24 feet in height.
- ~~7.8~~ Revise the acreage in GP#1 to correspond to the total amount of the individual parcels and reserves.
- ~~8.9~~ Change the wording in GP #2 to "limited" rather than "light" commercial.
- ~~9.10~~ The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

~~40.11.~~ Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

~~41.12.~~ The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.

~~42.13.~~ The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

DONNA GOLTRY Planning Staff, presented staff report. Staff is recommending approval subject to replatting within one year and subject to conditions. (Showing aerials and maps and slides of the area). This request for the purpose of a transfer of property from DP 201 to DP 200 and the associated rezoning of property along Webb Road from "GO" to "LC." Staff is recommending approval subject to conditions contained in the revised "Recommendations (addendum). We are recommending a wider setback on Parcel 12 or to eliminate service drives and openings along the southern property line. DAB did recommend approval subject to staff recommendation as given in the addendum staff report that included the larger setback along screening wall of the southern property line. The attorney from Club House Villas is here.

ROB HARTMAN (Puts a color drawing on the easel.) We are in agreement with the staff comments but one item. We are in agreement to the private Restrictive Covenants with the Clubhouse Villas. We are not in agreement to Item #3 Increase building setback on the southern property line to 50 feet for Parcel 12, or allow a reduction of the setback of 35 feet if there is no service drive or openings along the south wall of the retail building. Developer has worked very hard with the Club House Villa people.

GAROFALO You are not in agreement with #3?

HARTMAN We would like to leave it at a 35 not 50 feet setback.

HENTZEN 35 ft in effect now?

HARTMAN I don't know.

GOLTRY Yes it is part of that 60-ft buffer strip, a GO buffer, to protect the Clubhouse Villas. The setbacks are shown at 35 feet, which is the minimum required for C.U.P.s. It was both a drive and buffer before that was 60 feet in width altogether.

KROUT 24 ft wide. The driveway?

GOLTRY Right

HENTZEN What should be said on 3?

HARTMAN Leave the CUP at 35 feet as it was filed and not increase it to 35 feet.

GOLTRY Clubhouse Villas has

KROUT Let me try to settle this. Staff originally suggested something stricter, but if Clubhouse Villas thinks that 35 feet is adequate, we'll go along.

BARFIELD Who is this CVC Wichita Assoc memo from?

KROUT The residential developer still has separate concerns.

BOB KAPLAN I represent the owners of the Clubhouse Villas. We need a commitment to the restrictive covenants. The covenants agree with Mr. Laham; with the 50 ft setback or go back to 35 feet. We are in agreement about the restrictive covenants. The trees will be about 8ft high, but we are talking about trunk diameter not height. This is still being determined in the covenants.

HARTMAN I will confirm that we are in agreement with the restrictive covenants Kaplan prepared.

MOTION: To approve per staff comments. Change #3 to 35 foot setback.

JOHNSON moved, **ANDERSON** seconded the motion, and it carried (11-0).

BISHOP Amend motion 35 setback as needed per the covenants?

KROUT Let's not change this.

5a. **CUP2002-10 DP-260 Wilson Estates Medical Park CUP** – Barbara Waddell (owner); Laham Holding Co, L.L.C. (agent); P.E.C., P.A. c/o Rob Hartman (agent) request creation of DP-260 Wilson Estates Medical Park and;

- 5b. **ZON2002-18** – Barbara Waddell (owner); Laham Holding Co, L.L.C. (agent); P.E.C., P.A. c/o Rob Hartman (agent) request zone change from “SF-5” Single Family Residential to “GO” General Office for development of a medical office park on property described as:

Lot 1, Block 2, Legacy Park Wilson Estates. Generally located South of Wilson Estates Parkway and west of Webb Road.

BACKGROUND: The applicant is requesting that a 33-acre tract known as Parcel 11 of DP-201 Wilson Estates Residential C.U.P. be removed from DP-201 and be created as a new, separate Community Unit Plan. The new C.U.P. would be known as DP-260 Wilson Estates Medical Park.

The tract would be divided into ten parcels. A total of 220,000 square feet of office use is requested, with over one-third being located on Parcel 10 (14.67 acres). The remaining nine lots range in size from 0.81 acre to 3.17 acres. The floor area ratio for the development would be 0.17.

Permitted uses are general office and medical service; all residential uses previously permitted on this property are excluded.

Setbacks and landscape buffers are proposed as follows: 40 feet on the north; 53 feet of the east (setback only, landscaping would be only a landscaped street yard per the Unified Zoning Code); 100 feet on the south; and 200 feet on the west.

Access is proposed via Webb and Wilson Estates Parkway. Two access points are shown on Webb, with one roughly opposite the main entrance to Eastminster United Presbyterian Church and the other approximately 50 feet offset from the southern entrance to Eastminster. Two access points are shown on Wilson Estates Parkway, with one near Webb and the other near the western edge of the tract.

The applicant's agent has agreed to additional restrictions on the C.U.P. First, Parcels 1, 3, 4, and 5, located along Wilson Estates Parkway, would be restricted to one-story buildings. Second, left turns would be prohibited at the eastern entrance onto Wilson Estates Parkway. Also, landscape berms six to seven feet in height would be installed along Wilson Estates Parkway, even if it requires more than a 40-foot wide landscape buffer. Within this bermed area, there would be a landscaped street yard at least equivalent to one shade tree every 25 feet. Architecture would be consistent with that at Bradley Fair and Legacy Park, but with the possibility of adding a brick as an additional accent material. All building sides would be finished with the same architectural materials and any rooftop mechanical units would be screened from view around the whole building. Finally, the development would be responsible to install pedestrian crosswalks with red pavers and appropriate signage at both driveways of Clubhouse Villas in order to connect with the arterial sidewalk on the south side of Wilson Estates Parkway.

The agent also agreed to limit signage one monument sign at each of the two driveways on the two streets, for a total of four signs, each with a maximum height of ten feet and size of 44 square feet.

The surrounding area is low-density single-family (3/4 to one acre per lot) development to the south (The Foliage), southeast (Country Place) and west (The Preakness) on “SF-5” Single-Family zoning. The property to the north also is zoned “SF-5” and developing with four-plex condominium units, Clubhouse Villas at Wilson Estates. The density of this development is five dwelling units per acre, which is considered low to moderate density. Eastminster is located across Webb Road.

CASE HISTORY: The property is platted as Legacy Park Wilson Estates Addition, recorded June 27, 2000. It is Parcel 11 of DP-201 Wilson Estates Residential C.U.P.

ADJACENT ZONING AND LAND USE:

NORTH: “SF-5”	Residential (Clubhouse Villas at Wilson Estates)
EAST: “SF-5”	Eastminster United Presbyterian Church
SOUTH: “SF-5”	Residential (The Foliage), abandoned railroad right-of-way
WEST: “SF-5”	Residential (The Preakness)

PUBLIC SERVICES: The site has access from Webb Road. Traffic counts are not available for 19th Street/Webb. Average traffic (ADTs) in 2000 at the 21st Street North/Webb intersection was 12,276 cars/day for the west leg of the 21st/Webb intersection and 13,000 to 14,500 for the north and south legs of the intersection. Traffic is projected to increase to 19,700 ATDs on the west leg, 26,000-28,000 for the south leg, and 24,000-26,000 for the north leg in 2030.

Wilson Estates Parkway is a residential collector street connecting the residential areas within Wilson Estates with commercial and office development located along the arterials (Bradley Fair on Rock Road and Wilson Estates Office Park on 21st Street North).

Normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the *1999 Update to the Comprehensive Plan* identifies the general location as appropriate for “low density residential” development rather than office development.

If the property is developed with offices, it should be in conformance with the *Comprehensive Plan's* goals/strategies and locational guidelines for office use that are intended to minimize detrimental impacts on adjacent residential use. The **Commercial/Office Objective III.B** of the *1999 Update* seeks to “develop future retail/commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses”. **Commercial/Office Strategy III.B2** seeks to integrate outparcels and planned centers through shared circulation, combined signage, similar landscaping and building materials, and combined ingress/egress. This is reiterated in the **Residential Objective/Strategy II.B.4** for higher intensity land uses near residential that recommends plan review “to ensure that building placement and height, circulation, signage, screening and lighting for non-residential land uses do not adversely impact residential areas”. **Commercial/Office Strategy III.B3** seeks to reduce the number of access points along arterial streets to improve traffic safety and flow. **Commercial/Office Strategy III.B6** seeks to channel commercial traffic to the closest major thoroughfare with minimum impact upon local residential streets.

Office locational guidelines again stipulate that commercial development should be located adjacent to arterial streets. The remaining office locational guidelines relate to the scale of office development, with "large-scale" being encouraged in the CBD, "local service-oriented" being incorporated within or adjacent to neighborhood or community-scale commercial uses, and "low-density" being a transitional use to residential.

RECOMMENDATION:

The proposed C.U.P. is not in conformance with the Land Use Guide of the *Comprehensive Plan*. Also, it is a large development, with one particular parcel being permitted 80,000 square feet of office use and a total potential of 220,000 square feet. This makes the development well beyond the "low-density office" classification as addressed by the *Comprehensive Plan*, and argues for evaluating it as a "local service-oriented" office park that is incorporated within or adjacent to neighborhood or community-scale commercial uses. This fits the situation for Legacy Office Park (21st Street North and Webb) and Wilson Estates Office Park (21st Street North and Bradley Fair Parkway) where the office development is between "LC" commercial areas and "SF-5" residential neighborhoods. This proposed medical park differs by having "SF-5" residential use on three sides, and institutional on the other side.

The developer has endeavored to eliminate the conflicts between the office and residential uses by providing exceptionally wide buffering and screening on the southern and western property lines. While the distance of separation provided along the northern boundary is not as great, the applicant's recent changes enhance the separation between Clubhouse Villas with a buffer that is to be bermed and heavily landscaped, plus adding other changes to building heights, architectural materials, rooftop screening. This is a significant improvement, particularly since the office development impacts a larger number of residential units (80 units are planned for Clubhouse Villas and 24 are located directly across Wilson Estates Parkway).

Access generally corresponds to recommended strategies for good internal vehicular and pedestrian circulation and having limited, shared accesses.

Based upon these recommendations and the information available prior to the public hearing, staff recommends the request be APPROVED subject to replatting within one year and subject to the following conditions:

(see "Recommendations" in the Addendum below)

This recommendation is based on the following findings:

7. The zoning, uses and character of the neighborhood: The proposed tract is surrounded by property zoned "SF-5" Single-Family. Residential development at low density (0.6 to one acre per dwelling unit) is located to the south and west and at low to moderate density (5.38 dwelling units/acre) to the north. A large institutional use, Eastminster Presbyterian Church, is located to the east of Webb Road.
8. The suitability of the subject property for the uses to which it has been restricted: The site could be developed for residential use as approved.
9. Extent to which removal of the restrictions will detrimentally affect nearby property: The main impact is on Clubhouse Villas at Wilson Estates to the north and the low-density residential development to the south and west. As proposed by the developer, buffer, setbacks and architectural requirements are provided to mitigate these impacts.
10. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The project is not in conformance with the Land Use Guide of the adopted Comprehensive Plan. If the proposed C.U.P. provisions for buffer, screening, architectural requirements, and other provisions are incorporated, the office use is in conformance with **Commercial/Office Strategy III.B2** to integrate outparcels and planned centers through shared circulation, combined signage, similar landscaping and building materials, and combined ingress/egress, **Residential Objective/Strategy II.B.4** for higher intensity land uses near residential that recommends plan review "to ensure that building placement and height, circulation, signage, screening and lighting for non-residential land uses do not adversely impact residential areas", **Commercial/Office Strategy III.B3** to reduce the number of access points along arterial streets to improve traffic safety and flow, and **Commercial/Office Strategy III.B6** to channel commercial traffic to the closest major thoroughfare with minimum impact upon local residential streets.
11. Length of time the land has been vacant as currently zoned: The property has been zoned "SF-5" and was platted as one single lot in 2000.
5. Impact of the proposed development on community facilities: 220,000 square feet of office development will add roughly four times the additional traffic of residential use at a density of 3 dwelling units per acre, as approved by the existing C.U.P. The proposed access controls and transportation improvements should mitigate these impacts.

ADDENDUM

The "Recommendation" section of the Staff Report has been revised as follows:

RECOMMENDATION:

The proposed C.U.P. is not in conformance with the Land Use Guide of the *Comprehensive Plan*. Also, it is a large development, with one particular parcel being permitted 80,000 square feet of office use and a total potential of 220,000 square feet. This makes the development well beyond the "low-density office" classification as addressed by the *Comprehensive Plan*, and argues for evaluating it as a "local service-oriented" office park that is incorporated within or adjacent to neighborhood or community-scale

commercial uses. This fits the situation for Legacy Office Park (21st Street North and Webb) and Wilson Estates Office Park (21st Street North and Bradley Fair Parkway) where the office development is between "LC" commercial areas and "SF-5" residential neighborhoods. This proposed medical park differs by having "SF-5" residential use on three sides, and institutional on the other side.

The developer has endeavored to eliminate the conflicts between the office and residential uses by providing exceptionally wide buffering and screening on the southern and western property lines. While the distance of separation provided along the northern boundary is not as great, the applicant's recent changes enhance the separation between Clubhouse Villas with a buffer that is to be bermed and heavily landscaped, plus adding other changes to building heights, architectural materials, rooftop screening. This is a significant improvement, particularly since the office development impacts a larger number of residential units (80 units are planned for Clubhouse Villas and 24 are located directly across Wilson Estates Parkway).

Access generally corresponds to recommended strategies for good internal vehicular and pedestrian circulation and having limited, shared accesses.

Based upon these recommendations and the information available prior to the public hearing, staff recommends the request be APPROVED subject to replatting within one year and subject to the following conditions:

A. APPROVE the zone change (ZON2002-000018) to "GO" General Office, subject to replatting of the property within one year.

B. APPROVE creation of DP-260 Wilson Estates Medical Park C.U.P., subject to the following conditions:

1. Relocate the southern access point to be directly across from the southernmost drive entrance to Eastminster United Presbyterian Church on Webb Road.
2. The following transportation improvements shall be guaranteed at the time of platting:
 - a. Provide a raised median or a channelized-Y for right-in/right-out only movements on southbound Webb Road at the middle entrance, with details to be determined at time of platting.
 - b. Extend the left-turn storage lane on Webb southward, tapering between the southern entrance on Webb and the railroad right-of-way.
 - c. Provide a third lane on Wilson Estates Parkway between the first entrance and Webb, said lane being designed for dual eastbound lanes onto Webb at the intersection and transitioning to dual westbound lanes (one left-turn only, one through) at the first entrance to the medical office park. A medial strip shall be designed to align the lane configurations.
 - d. Signalize the intersection of Wilson Estates Parkway and Webb Road.
 - e. Prohibit left-turns onto Wilson Estates Parkway from the eastern entrance by use of a directional raised median in the private drive entrance.
 - f. ~~Limit signage to one monument sign at each of the two driveways on the two streets, for a total of four signs, each with a maximum height of ten feet and size of 44 square feet.~~
3. Revise the C.U.P. to incorporate the conditions that have been accepted:
 - a. Parcels 1, 3, 4, and 5 shall be restricted to one-story buildings.
 - b. Landscape berms that are six to seven feet in height ~~would shall~~ be installed along Wilson Estates Parkway, even if it requires more than a 40-foot wide landscape buffer. Within this bermed area, there would be a landscaped street yard at least equivalent to one shade tree every 25 feet.
 - c. All buildings shall have similar architectural design and exterior building materials consistent with Bradley Fair/Wilson Estates Office Park, and Legacy Park Centers, with the possible addition of brick as an additional accent material. Buildings shall be constructed of a combination of two building materials, synthetic plaster finish and/or stucco and precast panels (individual cast stone appearance). Neither material may be used exclusively as the exterior building finish but must be used in conjunction with one another. Design precedence has been established by the Bradley Fair Shopping Center/Wilson Estates Office Park, and Legacy Park, and therefore the acceptable color range for the exterior materials are the same color range for the exterior materials ~~are the same colors~~ as those centers. Other accent colors and materials may be acceptable if they are used in conjunction with the predominant materials, but not as a replacement. Metal shall not be permitted as a predominant exterior building finish. The predominant roof material shall be red tile when the roofing material is visible. The same predominant exterior building material (façade) shall be used on all building elevations. Architectural design and exterior building materials shall be reviewed and approved by the Planning Director prior to the issuance of building permits. Exterior utility boxes, mechanical equipment, etc. shall be screened according to the acceptable color range as approved by the Planning Director. Any rooftop mechanical units would be screened from view around the whole building.
 - d. The development ~~would shall~~ be responsible to install pedestrian crosswalks with red pavers and appropriate signage at both driveways of Clubhouse Villas in order to connect with the arterial sidewalk on the south side of Wilson Estates Parkway.
 - e. ~~Signage would be limited to one monument sign at each of the two driveways on the two streets, for a total of four signs, each with a maximum height of ten feet and size of 44 square feet.~~
4. ~~Prohibit wall and building signage on facades facing Wilson Estates Parkway. Light fixtures shall be of uniform design on all parcels and not exceed 24 feet in height.~~
5. ~~Locate parking lots south of buildings on Parcels 1, 3, 4 and 5.~~

- ~~6.5.~~ The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- ~~7.6.~~ Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
- ~~8.7.~~ The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
- ~~9.8.~~ The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

DONNA GOLTRY Planning Staff (hands out more paperwork, including some revisions to "Recommendations" contained in the Addendum.) This is a request to rezone 33 acres from SF-5 to GO. Staff is suggesting minor clarifications to #2 and #2b of the Recommendation Section of the Staff Report, Addendum. These clarifications, which supplement the addendum received earlier, are shown in delineated and bold type.

Condition 2 add phrase "and engineering details".

Conditions 2A remove the words "with details to be determined at time of platting".

Conditions 2B remove the words "extend the left turn storage lane on Webb southward, tapering between the southern entrance on Webb and railroad right-of-way".

Conditions 2b replace with wording. "Extension of a left- turn lane to serve the northbound left movements at Webb Road and Wilson Estates Parkway, and construction of a northbound leftturn lane on Webb Road to serve the proposed southern driveway.

DA.B. It was a long meeting and Mr. Laham and Clubhouse Villas have been working together to try and bridge the gap. There are a number of persons on both sides of the issues. Some protests have already been received.

The requested zone change is not in conformance with the Comprehensive Plan. So, I did look at a number of the goals in the Comp Plan related to commercial and office use, and compared them to how this property will be developed. I looked a number of different strategies; these are on page 3 and 4 in the staff report.

As proposed with the revised CUP, we have good buffers landscape buffers, shade trees every 25 feet, and we did include these items as part the staff recommendations. On Wilson Estate Parkway they will keep the buildings to one story buildings.

To summarize, the D.A.B meeting--DAB voted in of favor staff recommendation subject to the traffic engineering department working out see how the wording can be clearer. There were to be discussions between the applicant and Public Works. MAPD and Public Works had discussed the transportation recommendations prior to preparing the initial recommendations and have discussed them again since the DAB meeting. The changes I read you earlier reflect these discussions, and clarify but do not change the recommended improvements.

ROB HARTMAN agent for the applicant: This was part of the residential CUP designed for single-family; we want an upscale medical park there now. We will be on 33 acres of land with low coverage. We have met with the neighbors to bring everybody up to speed and since then there has been several meetings.

Something to look at the buffer and the hedgerow and the easement and the railroad right-of-way. KG& E buffer. We are almost twice the landscape buffer that is required by the code. Left turn requirements on Webb Road we agree with.

We would like to meet with Traffic Engineering to look at the two openings to our south property line. We limited the height of the buildings to one story on Wilson Estates Parkway. Homes are in the \$500,000 range. Additional signal at 19th would help the church traffic and the Wilson Estates will benefit by the traffic signal and improvements along Webb Road.

Item 3E regarding 10 foot high monument signs on Webb Road--we propose 6 signs on Webb Road, with the height at 12.5 feet.

GOLTRY There may be a mistake on the Addendum (or unclear). I understand the applicant was requesting there only be allowed signs 10 ft high for 2 signs on Webb Road and 2 on Wilson Estates Parkway.

KROUT That is what I thought I heard; 2 signs on Webb Road, one at each of the proposed driveways. And 2 signs on Wilson Estates Medical Parkway.

HARTMAN: Mr. Laham has spent a lot of time developing the...

HENTZEN Two signs on the Parkway and 2 signs on Webb Road? And you said signage on Webb Road, you want 6 signs on Webb Road?

HARTMAN Right, we want 6 signs on Webb Road.

MICHAELIS What about the green area; can that site be brought up?

HARTMAN (Tries to explain the traffic flow needs to be easy and good visibility and good flow into the site and out of the site.) There is a drainage structure to the south of the structure so it might not work.

GAROFALO The Clubhouse Villa properties would be surrounded with commercial and office uses?

HARTMAN Right, but we have restricted the uses.

GARAFALO Has it been marketed at all for single-family? I would like to hear that?

BISHOP You wanted two access points from Webb Road between where and where? Another point of access not shown on this drawing?

HARTMAN (He is pointing to his layout.) Access control of first 385, feet and down in here 2 points of access

BISHOP There is somewhat of a frontage road?

HARTMAN Yes that is true.

KROUT Which office park were you talking about that doesn't have sign controls?

HARTMAN Kansas Surgery ???? No landscaping and no other controls.

KROUT That campus doesn't have anywhere near 6 signs along Webb Road. If this was a site that was just GO you would be allowed 4 signs. Because a CUP can be used to waive normal requirements. Six signs can be approved, with restrictions of the height and the size of the signs. But we have concerns and wonder if six signs is really necessary. It's going to look like the old Burma Share signs.

BISHOP Do you know about pharmacy uses being contemplated?

HARTMAN I don't know.

BOB KAPLAN I want confirmation of the medical office park in the restrictive covenant.

BISHOP Clarify for me these are covenants that you and the Clubhouse Villa owners have prepared for approval by Mr. Laham? So when they are signed the Wilson Estate Medical Park have to obey?

KAPLAN They are an agreement between the owner and the Clubhouse Villa owners and have nothing to do with the City of Wichita.

BISHOP Who would enforce them?

KAPLAN By the person to whom the covenants run, the owners of the Clubhouse Villas would have to enforce them.

BISHOP Usually covenants are enforced by the subdivision.

KAPLAN Laham and the Clubhouse Villa owners as long as they agree.

LAURIE SAHATJIAN, 1809 Paddock Green Street: The residents of Wilson Estates do not want a neighborhood drive turned into a major artery. Most people that live in a residential area do not want a commercial development.

Speeding cars cutting through the neighborhood to avoid Rock and 21st pose a significant and substantial threat of harm to the lives and property of Wilson Estates residents.

HENTZEN Where do you live?

TAPE change

BRAD STOUT, representing The Foliage Assoc.— We have some concerns about a berm. We want what is on the south side to be equal to what is on the west side. We have concerns on building #9. When this tract is moved down to be consistent with the church drive entrance it would further encroach on it. We want to discuss with Traffic Engineering when they move that access south what are they going to do with the building? Tract 9 has a lot of concern for us. The use is also a concern, some lighting concerns; the parking would be within the buffer area and we would want the lighting of that parking addressed as well. Also we have a concern that there has been some discussion of the railroad tracks to be abandoned there. We would like an understanding of what the use of these buildings will be.

KROUT Are these things you are trying to work out with the developer, or you want the City to work it out in the CUP?

STOUT ???

HENTZEN Point on map what group you represent.

ROGER ELLIS, Eastminister Church. I have a letter to hand out. The Church voted to oppose this case. The land use is in conflict. Traffic increases is not good with preschool. All four of adjacent parcels are SF-5. Signage on Webb Road is not desired.

BISHOP Question about access points.

ELLIS We have three access point to the church.

BARFIELD Do you know what the zoning is just north of your church is?

ELLIS No. It's a residential area.

JENNY DEALY We don't want this change. We have retired people, and children in there and we don't want the traffic there. We are very concerned about the traffic, several neighbors went to the neighborhood meeting to express their concerns.

GEORGE LAHAM We have been trying to work with the surrounding property owners and try to accommodate folks and want to continue to be a good neighbor. The area most affected is the Clubhouse Villas (the 16 residents) and we have worked out the restrictive covenants with them. As the Foliage goes, we have had some open discussion with them and they have concerns. Mr. Stout and I have spoke about those moments ago, about the lightening, etc. I am committed to working on those. We do have concerns about the traffic; we have not finalized anything. They are proposing two entrances on Webb Road-one a major entrance. We have proposed the signal to get in and out of Wilson Estates. We have a signal at 21st and Rock Road. We would have three entrance points to get in and out.

MICHAELIS Are you speaking in favor or?

KROUT He is the applicant, and has used his rebuttal time; does he need more time?

LAHAM There are concerns about the entrances and we will try and make it easy on everyone concerned. We want to accommodate the neighbors. As far as the signs go--they are 12'6" in the commercial. They are a monument sign and they are nice signs.

BISHOP Where is the signal?

LAHAM Wilson Estate Parkway and Webb Road.

BARFIELD The signage is 6 signs plus 4 monuments?

LAHAM On Webb Road I want 6 signs at 150 feet apart at 12'6". In addition on Wilson Estates Parkway two signs limited to the access points.

BARFIELD Can you address about marketing this as residential?

LAHAM I would like Kevin Mullen from Ritchie Assoc to answer that.

COULTER The access on Webb Road?

LAHAM We really have not talked with staff yet but we will work with Traffic Engineering.

MICHAELIS The Traffic Engineer is here.

KEVIN MULLEN, Ritchie Assoc. Regarding the marketing analysis--that area was platted for 60 different lots. Our market has changed. The larger companies have moved out and the executives have moved out of Wichita. Wichita has changed as far as market goes. We think a Medical office park is better than putting in a moderate size houses.

MOTION: To approve request subject to staff recommendations and grant the request of the applicant concerning the signs and transportation improvements-- whatever the applicant requested.

HENTZEN moved, **GAROFALO** seconded the motion, and it carried (11-0).

JOHNSON Maker of the motion, are you agreeing with the attorney Mr. Kaplan about the restrictive covenant and the 6 signs?

KROUT Also, the applicant has asked that you not to do anything final about the access points until it is time to plat.

BARFIELD Marvin, are you aware of any other developments that have excessive signage like this?

KROUT We opened the door on 21st Street with their Office Park. I didn't think we have traditionally done that, I don't now of any other office development that has this much signage.

BISHOP Is there a problem with changing the access and traffic improvements through the plat?

KROUT If you approved it in the CUP today except that made changes at the platting time, would adjust any of these conditions, so I don't think it makes to much difference, the public won't know what has changed or what hasn't.

BISHOP Like the church?

KROUT We can send a courtesy notice and signs will be put up for the Subdivision case, per the new MAPC policy.

MCKAY out at 3:30

COULTER out at 3:45

6. **CON2002-10** – Paul W. Weigand (Owner/Applicant) request a Conditional Use to allow used car sales on property described as:

Lots 10 and 11, Block E, Graber Addition to Wichita, Sedgwick County, Kansas. Generally located Northwest corner of Hydraulic and Wassall Lots 10 & 11, Block E, Graber Addition.

BACKGROUND: The applicant, Paul Weigand, is requesting consideration and recommendation for a Conditional Use to allow used car sales on property zoned "LC" Limited Commercial. The property (14,782.88 square feet) is described as Lots 10 & 11, Block E, Graber Addition, located on the northwest corner of the Wassall - Hydraulic intersection. Wassall fronts the south side of the property and Hydraulic fronts its east side. The Unified Zoning Code requires a Conditional Use for vehicle and equipment sales, outside in "LC" Limited Commercial zoning. The applicant has submitted a site plan.

The applicant is requesting consideration of used car sales on this property, which contains a vacant 1,500 sq.-ft building to be used as office space and a concrete parking area where he proposes to display the used cars and provide parking for prospective buyers. The site plan shows 5 parking spaces to be provided for customers, this is sufficient for this site; the applicant needs to designate one space for handicap parking. There are 9 spaces for display and the site plan shows approximately 51-ft of circulation on the Hydraulic side and Staff scales approximately 30-ft on the Wassall side.

The site has 4 existing entrances/exits (entrances); 2 on Wassall and 2 on Hydraulic. The applicant has shown on the site plan that he will close off the 2 entrances that are closest to the Wassall – Hydraulic intersection, leaving the two farthest from the intersection open. The site plan shows the closed entrances to be landscaped. This would leave the site with an entrance on Hydraulic and another on Wassall. These remaining entrances would line up with existing entrances of the businesses that are across from it on Wassall and Hydraulic; Louie's Liquor on the Hydraulic side and Quick Trip on the Wassall side. The site has two old light poles (without light fixtures attached) on it, one located on the southwest side of the site and the other on the northeast side of the site. The one on the northeast side of the site is damaged and will need repair or possibly removal.

The site plan shows proposed landscaping and the existing landscaping. The existing landscaping is the grass areas on the north and west sides. The proposed landscaping includes 10 shrubs and 5 Austrian Pines. The landscaping is being reviewed. Staff does not agree with the submitted landscaping plan calculations and is addressing this issue with the applicant.

The neighborhood to the north is zoned SF-5 and has developed residential. There is a 6-ft stockade fence between the proposed used car lot and the residence adjacent to it on the north side. The neighborhood to the west is zoned TF-3 and is developed as single family residential. There is a 6-ft. stockade fence that runs the width of the southwest lot adjacent to the proposed site, the next lot north of this lot has no screening between it and the proposed site. On the east side (across Hydraulic) there is Louie's Liquor at the intersection, then north of it Shooter's, a billiards hall. North of these two businesses on the west side there are single family and multifamily residences. Development on the south includes a restaurant on the southeast side of the intersection and a Quick Trip on the southwest side of the intersection. Adjacent to these businesses are two small strip centers containing barber - beauty shops, sandwich shops, insurance businesses, a bingo hall, bars, and restaurants. Beyond these businesses to the Hydraulic – I-135 Loop, are residences (both single family and 4-plex) and a warehouse – distribution developments

CASE HISTORY: The Graber Addition was entered on transfer record November 13, 1950. The BZA denied an application for a car sales lot on this site at their July 24, 1984 meeting. An application for a used car sales lot was recommended for approval by the MAPC, 10-2, at their March 8, 2001 meeting. April 17, 2001 DAB III recommended denial, 8-0, for the Conditional Use request for a used car lot. The WCC voted to deny the Conditional Use request for a used car lot, 7-0, at their May 1, 2001 meeting. This request for the Conditional Use is being made by the same applicant as the one March 8, 2001, just over 13 months ago. Just prior to the March 8th MAPC the applicant had verbally asked Staff for consideration of having a 'pool shooting school' co-located on the site. This was addressed during the MAPC meeting and the applicant was informed that a 'pool shooting school' would be a permitted use by right in "LC" zoning, but co-location on the site with the car lot would probably bring parking into non-compliance.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5" Single Family Residential	Residential
EAST:	"LC" Limited Commercial	Liquor store, billiards hall
SOUTH:	"LC" Limited Commercial	Strip shopping centers
WEST:	"TF-3" Two Family Residential	Residential
	"SF-5" Single Family Residential	Residential

PUBLIC SERVICES: Hydraulic is a four-lane arterial street. The estimated traffic volume of (ADT) trips per day at the Hydraulic - Wassall intersection is 4413 ADTs on the west side, 9458 ADTs on the north side, 356 ADTs on the east side and 10042 ADTs on the south side. Water/sewer and other municipal services are provided to the site.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide, as amended in 2002, of the Wichita – Sedgwick County Comprehensive Plan identifies this property as Commercial. The current zoning of the site is "LC" Limited Commercial. The Unified Zoning Code requires a Conditional Use for vehicle and equipment sales, outside in "LC" Limited Commercial zoning. The Wichita – Sedgwick County Comprehensive Plan, as amended by Resolution 5-02, directs the location of auto sales lots and other types of

infrequent purchase or non-neighborhood serving commercial uses to areas (existing or planned) containing similar uses and away from neighborhood commercial areas. This area contains neighborhood commercial and no auto sales lots and other types of infrequent purchase or non-neighborhood serving commercial uses.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be DENIED. The Comprehensive Plan does not indicate that a used car lot would be appropriate for this area, there are not any other vehicle sales lots existing or allowed by zoning in the general vicinity. The commercial uses along this portion of Hydraulic are neighborhood serving and do not involve outdoor display or storage associated with vehicle sales.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is zoned "LC," SF-5" and "TF-3". The existing businesses in the neighborhood are local retail in character. There are established residential developments adjacent to the site on the north and west sides. A location further south that would be in the warehouse – distribution center area would be more appropriate.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with one of the many "LC" permitted uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Outdoor storage and display of vehicles is not consistent with the type of development existing at this intersection. Approval of this request will most likely open other sites nearby for additional vehicle sales lots and other "heavier" commercial uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Unified Zoning Code requires a Conditional Use for vehicle and equipment sales, outside in "LC" Limited Commercial zoning. The Wichita Land Use Guide of the 1999 update to the Wichita – Sedgwick County Comprehensive Plan identifies this property as Commercial. The current zoning of the site is "LC" Limited Commercial. The Wichita – Sedgwick County Comprehensive Plan, as amended by Resolution 5-02, directs the location of auto sales lots and other types of infrequent purchase or non-neighborhood serving commercial uses to areas (existing or planned) containing similar uses and away from neighborhood commercial areas. The proposed car sales lot does meet these criteria. The nearest car sales lot is located on the Douglas Hydraulic Intersection.

If, however, the Planning Commission believes this is an appropriate use, staff recommends approval be subject to the following conditions:

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of used cars. No sale or rental of trailers or trucks larger than pick ups. All automobiles displayed for retail sale will be of the standard and quality as is currently available at a new car dealership and those automobiles, which are trade ins and cannot be warranted will not be held for retail sale.
2. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
3. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the issuance of a building permit, per City Standards
4. The applicant shall install and maintain landscaping in accordance with the revised landscape plan submitted with the revised site plan.
5. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles so not encroach onto public right-of-way.
6. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.
7. There shall be no use of elevated platforms for the display of vehicles.
8. No amplification system shall be permitted.
9. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
10. The lighting standards of Section IV -B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted.
11. The applicant shall erect and maintain a solid six-foot screening along the northern and western property lines that are adjacent to residential zoning and the existing residential development.
12. The applicant shall guarantee the closure of the Hydraulic and Wassel entrances that are closest to the intersection and continue the curb and gutter according to City standards. Dedication of access control allowing closing the Hydraulic and Wassel entrances that are closest to the intersection by separate instrument shall be submitted to Staff for recording.
13. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

BILL LONGNECKER, Planning Staff, D.A.B. III recommended approval, this case was considered by MAPC about 13 ½ months ago. The conditions of this case are the same as 12 ½ months ago.

Staff is recommending denial. The character of the existing commercial development in this area is neighborhood-serving. Look at condition #1 strike out 4 sentences revise to read the first 3 sentences. No sale or rental of trailers are permitted. The DAB wanted this Conditional Use to be tied to ownership, Conditional Use can't be tied to ownership.

MARNELL Bill I'm curious with condition #2. What's the purpose of that?

LONGNECKER At the time staff was concerned about no salvage being on the site, this is standard language.

GAROFALO a couple of questions, does it explain to DAB. The question of tying ownership to a Conditional Use and was it pointed out this case had been rejected once by them.

LONGNECKER I'll allow Scott to handle this.

KNEBEL Yes it was, I attended the DAB meeting for Bill. I also explained no, the CU it ran with the property.

GAROFALO This was being considered for this use and not ownership, and this was the DAB's decision?

KNEBEL I didn't have much credibility.

GAROFALO The applicant does not want to agree with the first condition,

LONGNECKER The first condition we modified, wipe out the last sentence and it should retain the 2 sentences plus add sale of cars and light trucks, plus add vehicles to the sentence about rental.

GAROFALO Are you saying that last sentence comes out?

LONGNECKER Yes.

GAROFALO #6?

LONGNECKER The applicant and I did not reach an agreement, this is standard language. I feel comfortable with this recommendation as it is.

GAROFALO #7?

LONGNECKER Again you are looking at the nature of retail area, where you do not have this type of outside display, I don't think the applicant and I agree on this condition.

GAROFALO In the regulations the usage is?

LONGNECKER Limited Commercial Use and the Conditional Use.

KROUT To elaborate on that, we put these conditions in the zoning code, any of these standards could be waived part as part of the process but it would then have to go to City Council for approval.

GAROFALO So we can delete.

KROUT if you recommend that to be deleted, then this would be part of the recommendation.

BARFIELD Does the applicant own this property?

LONGNECKER Yes.

BARFIELD How long has property been vacant.

LONGNECKER At least since the development of Quick Trip.

BARFIELD Marvin what was the reason that the City Council overrode the MAPC?

KROUT Neighborhood opposition.

BARFIELD Once denied were there stipulations about re-applying?

KROUT The zone code says you have to wait a year, in this case the year has gone by; or after 6 months, if the applicant can demonstrate a change in the conditions, then they can reapply at that time.

LONGNECKER We received 2 letters of protest.

HENTZEN Review again, the first time he applied, we approved 10-2.

LONGNECKER Yes and from MAPC It went to DAB.

HENTZEN The DAB voted against.

LONGNECKER 8-0 against.

HENTZEN We voted 10-2 in favor.

LONGNECKER MAPC yes you approved 10-2.

HENTZEN They sent it back. Did City Council send it back to MAPC?

LONGNECKER No City Council denied it.

HENTZEN Now it came back to us.

LONGNECKER The zoning code states that after a year the applicant can reapply.

HENTZEN Now he's starting all over.

LONGNECKER DAB approved 7-2, now it's going in front of you.

HENTZEN That board voted 7-2 approve, we vote one way or another and that's the end of it.

LONGNECKER If you approve with all the conditions per staff recommendation.

KROUT Yes unless one of those protests is written and within 200 feet.

LONGNECKER We will confirm that.

JOHNSON Just wanted to clarify.

PAUL WEIGAND, Applicant, Last time, the DAB got their feelings hurt, you voted 10-2 to approve, DAB was against it, they rejected it in the past year I had a chance to talk to some people, and they voted for it this time. Things have taken different sequel in event, I'd like to address some of these conditions for approval. No elevated platform I don't understand, I'd prefer to have as few restrictions as possible. Basically, a couple of those conditions. I'm going to have those two driveways taken out; I would just rather operate with as few restrictions as possible.

MICHAELIS Have you spoken to Lambke? Have gotten one on one with him to see if he is in favor?

WEIGAND I feel that he will agree with me.

KROUT I don't feel that would be appropriate until after MAPC recommendation.

BARFIELD Have you dropped the idea of the pool school?

WEIGAND I should have never mentioned that I am a pool instructor.

BARFIELD You talked to the DAB member; have you spoken with the protestors?

WEIGAND I don't know who they are.

MOTION: To approve, subject to deletion of last sentence in #1 and deleting #6.

BARFIELD moved, no second.

Lack of second.

JOHNSON Help me out on the sign deal?

KROUT In the code for car lots, there is a standard on signs. WCC can vote to waive that standard with your recommendation, but it can't stop here; only the Council can decide to waive that standard.

HENTZEN If we pass your motion here is that the end of it?

KROUT Unless there is a protestor within 200 feet.

BISHOP I am not going to support the motion because it is not in compliance with the COMP PLAN.

MARNELL I am going to support it and I am thinking this is an improvement for that land, it is something that is necessary for that area. Low income housing there is in a deteriorating mode and this would help the area.

BARFIELD I am in favor of approving this but want #6 out, I am voting against the motion

MOTION: To approve with removal of last statement in condition #1, and per staff recommendations.

JOHNSON moved, **MARNELL** seconded the motion, and it carried (6-3). **GAROFALO, BISHOP and BARFIELD** Opposed.

- 7a. **CON2002-13** – Kyle Barakeh (owner/applicant); Baughman Company, PA c/o Russ Ewy (agent) request a conditional Use for a wrecking/salvage yard and;
- 7b. **ZON2002-19** – Kyle Barakeh (owner/applicant); Baughman Company, PA c/o Russ Ewy (agent) request a zone change from “GC” General Office and “AOD III N” Airport Overlay District III North to “LI” Limited Industrial and “AOD III N” Airport Overlay District III North on property described as:

Lot 12, Block 2, Grillot Addition, Wichita, Sedgwick County, Kansas, except the north 65 feet of the east 38 feet thereof, together with the north-half of the vacated Osie Circle right-of-way adjacent to and south of said Lot 12. Generally located South of Harry, approximately ½ mile east of Woodlawn.

BACKGROUND: The subject property is currently being used for the dismantling of vehicles, which is illegal under the current zoning of the property. Therefore, the applicant is requesting a zone change from “GC” General Commercial to “LI” Limited Industrial and a Conditional Use to permit the dismantling of vehicles on the property. The Unified Zoning Code defines the dismantling of vehicles as a “Wrecking/Salvage Yard”, which requires at least “LI” Limited Industrial zoning and a Conditional Use.

The subject property is a 0.67 acre platted tract generally located south of Harry, approximately ½ mile east of Woodlawn (behind 6813 E. Harry). Most of the subject property is zoned “GC” General Commercial; however, a 38-foot by 65-foot tract in the northeast corner of the subject property was rezoned to “LI” Limited Industrial to permit a small concrete plant for use in conjunction with an equipment rental business that formerly occupied the subject property. The subject property also is located within Airport Overlay District III North, which prohibits using the subject property for uses that involve large congregations of people due to the property’s location under the flight path for McConnell Air Force Base.

The character of the surrounding area is commercial. All of the properties surrounding the subject property are zoned “GC” General Commercial. The property located north of the subject property is developed with a used car lot, is owned by the applicant, and provides access from the subject property to Harry. The property located east of the subject property is developed with an employee parking lot and the loading/receiving area for a furniture store. The property located south of the subject property is owned by the City of Wichita and is used to stockpile landscaping and construction materials. The property located west of the subject property is developed with a self-service storage warehouse.

The applicant has submitted a site plan (attached) showing the proposed use of the subject property. The site plan shows an existing building where vehicles are to be dismantled. The site plan shows that the rest of the subject property is to be used for the storage of vehicles. An eight-foot high screening fence is shown around the perimeter of the property. The site is shown to be enclosed by an 8-foot high metal panel fence. Since the subject property is surrounded by property zoned “GC” General Commercial and does not have arterial street frontage, no landscaping of the subject property is required.

CASE HISTORY: The subject property is platted as Lot 12, Block 2, Grillot Addition, which was recorded September 28, 1967. The subject property also contains the north half of the vacated Osie Circle right-of-way, which was vacated September 10, 1990. A 38-foot by 65-foot tract in the northeast corner of the subject property was rezoned from “GC” General Commercial to “LI” Limited Industrial on August 17, 1984.

ADJACENT ZONING AND LAND USE:

NORTH:	“GC”	Used car lot
SOUTH:	“GC”	Stockpiling of landscaping and construction materials
EAST:	“GC”	Furniture store
WEST:	“GC”	Self-service storage warehouse

PUBLIC SERVICES: The subject property has access through the used car lot to the north to Harry, a five-lane arterial street at this location with current traffic volumes of approximately 23,000 vehicles per day. The 2030 Transportation Plan projects traffic volumes on Harry to increase to approximately 36,000 vehicles per day. The 2030 Transportation Plan indicates that Harry will need to be widened to six or seven lanes to support the increased traffic volumes. The proposed use of the subject property should for the dismantling of vehicles should not increase the traffic generated by the property. Public water and sewer service are currently available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for “Commercial” development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to travel through less intensive land uses. The subject property meets these locational guidelines for industrial development.

RECOMMENDATION: Based upon information available prior to the public hearing, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use for a Wrecking/Salvage Yard shall permit the dismantling of vehicles and the sale of vehicle parts only. No other uses customarily associated with a Wrecking/Salvage Yard such as the collecting, storing, and/or salvaging of machinery, equipment, appliances, vehicles, vehicle parts, bulky waste, salvage material, junk, or discarded materials shall be permitted.
2. The dismantling of vehicles shall be performed within an enclosed building.
3. All vehicle parts shall be stored within an enclosed building or within racks or bins. All racks and bins shall be elevated so there is at least 18 inches between the bottom of the rack or bin and the ground. Racks or bins shall be a minimum of 48 inches away from any wall, fence, or other rack or bin. No rack or bin or material stored in such rack or bin shall exceed a height of 8 feet.
4. There shall be no more than 30 vehicles to be dismantled stored on the subject property at any one time. No vehicle shall remain on the subject property for longer than 60 days.
5. All vehicles to be dismantled and racks or bins for the storage of vehicle parts shall be stored on paved surfaces meeting the standards of Sec. IV-A.2. of the Unified Zoning Code.
6. The subject property shall be entirely enclosed by a white or earth-tone, single-color metal panel fence not less than 8 feet in height and having cracks and openings not in excess of five percent of the area of such fence. No automotive parts or accessories shall be used for screening purposes or located on or attached to the screening fence. A gate is permitted in the north side of the screening fence, but it shall remain closed unless in use.
7. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the salvage yard shall be provided by fire lanes per the direction and approval of the Fire Chief.
8. The site shall be developed in general conformance with the approved site plan.
9. The applicant shall obtain and maintain all applicable local, state, and federal permits and licenses necessary for the operation of a wrecking/salvage yard.
10. Any violation of the conditions of approval shall render the conditional use permit null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding properties are developed with commercial uses on properties zoned "GC" General Commercial. The character of the surrounding area is commercial. The proposed use of the subject property is compatible with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "GC" General Commercial. The property is apparently suitable for the commercial uses to which it has been restricted; however, the proposed use of the subject property is similar in intensity to a body shop, which is permitted in the "GC" district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on nearby property should be minimized by the screening and operation standards required by the Conditional Use.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to travel through less intensive land uses. The subject property meets these locational guidelines for industrial development.
5. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities.

SCOTT KNEBEL Planning Staff present staff report. Staff is recommending approval based on conditions. There are 10 of them. Shows site plan, pictures, etc. The dismantling of vehicles shall be performed within an enclosed building. The surrounding area is commercial. The property is apparently suitable for the commercial uses to which it has been restricted.

A change to Condition #1 is that they would be able to collect and store vehicle parts.

BARFIELD Certain machine tools in #1, like a pile of electric drills. Those would be allowed in the building, right?

KNEBEL Right now they have to keep it in the building. The machinery cannot be stored outdoors.

BISHOP Governor and Osie, are those public streets?

KNEBEL Osie had a half street right, here but there is right-of-way here. A street could be built.

BISHOP It is posted no trespassing.

KNEBEL Yes, because they had problems with illegal dumping.

BISHOP The location is strange. Where was the zone change sign put?

ANDERSON The City stores stuff back there, construction materials

KNEBEL Top soil, etc.

WARNER Does the City have a way to stop traffic there?

RUSS EWY This was an entire subdivision. This property here was developed for self-storage units. The City of Wichita did a zone change and permit to stock pile certain things. The applicant agreed to vacate Osie. There is no access to our site whatsoever from Osie.

I spent two hours at a DAB IV meeting about salvage yards, then the next week I was asked to represent one. We have taken great pains to work with staff on this. No one has showed up to protest this to date. Nobody in the notification area showed up to protest this request. This is a multi-functioning site. It is where the old Rent World used to be. It has an industrial flavor for a number of years. There is a auto repair place on the same property already today. The owner is simply looking to have a way of getting salvage parts to store them for a short period of time. He will purchase cars and sell them up front on site. Quick turnover of the stock that is in there. He has enclosed it with the fence. It is a managed site, so although we are forced to be a salvage operation, we really are only interested in automobiles that we can get parts off of.

I noticed we did not send anyone to the DAB meeting last night and had noticed that we got a vote to deny. They didn't like the fact that we are going through this process to rectify this violation or illegal use. I was disappointed. Sure they say they are going to run a good operation, but the City has the enforcement of the policy. The City has good code enforcement.

BARFIELD I take difference in the salvage yard and not a auto shop.

EWY The parts are used in 2 months or the vehicle goes on a to flat bed truck, then out to the junk yard.

BARFIELD No retailing or selling of parts?

EWY That is correct. There is not a parts store here. I couldn't get a radiator for my car. He could put it in and charge me, but not sell me the part.

BARFIELD Workable parts, I don't agree.

EWY This is 2/3 of an acre. Look at the scale. I don't know if you could get 30 cars down there.

BISHOP What about the signs?

EWY There is no public access. We owned everything up to Harry, and we tied it to the chain link fence at the opening of the car lot.

CHARLOTTE FOSTER, President of Neighborhood Assoc.: WE are opposed to this zone change and Conditional Use. We don't need a salvage yard in our neighborhood. I am a member of DA.B. II. The City has a problem of checking on codes, and I have found out this in my neighborhood. It is a long time until someone complains. Thirty cars you could see from the Turnpike. This does not belong in our neighborhood. There is only 200 feet notification in our neighborhood. The outside storage, I question that would be appropriate. I am opposed to that.

EWY Of course these things are visible. There is a salvage yard right there at the Overpass of the Union Pacific railway place. I believe that we are far enough away from the highway. It is a small lot. Enforcement basically is not a reason to deny. It is up to the City to enforce the Code. We do have conditions and we have agreed to them.

BARFIELD Is there any screening around the storage?

EWY Yes.

BISHOP I want to report that I was contacted by 3 of the residents in that area. One lady who lives north of the area, she agrees she didn't know who it was. There was a flat bed truck that unloaded cars, and it took a couple of hours on Governor, and there is concern with traffic.

MOTION: To approve, subject to staff comments and citing the findings in their report.

HENTZEN moved, **ANDERSON** seconded the motion, and it carried (8-1) **BISHOP** voted opposed.

8. **ZON2002-16** – Steve Clark requests a zone change from “SF-5” Single-Family Residential to “NO” Neighborhood Office with a Protective Overlay for an insurance office on property described as:

Lot 1, Block 2, Graf Goldston 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located southeast of the 21st Street North – Maize Road intersection, approximately 1200 feet south of that intersection, 1930 N. Maize Road.

BACKGROUND: The applicant is requesting "NO" Neighborhood Office zoning with a "PO" Protective Overlay on Lot 1, Block 2, Graf – Goldston 2nd Addition. The site is a vacant, corner lot with frontage on both Belle Vista and Maize Road. The site has access onto Belle Vista, a residential road. The Maize Road frontage has complete access control. The applicant proposes to build a 1,598 square-foot insurance office.

There is established single-family housing within residential zoning in all directions from the site, with a few exceptions. There is a church north of the site, across Belle Vista and another church being built west of the site across Maize Road. Both church sites are zoned "SF-5" single family residential. There is also a large cemetery south of the site zoned "SF-5". There are single-family residences abutting the east and south sides of the site.

The only non-residential zonings and developments that are located between the commercial zoning and development at the intersections of 21st Street North – Maize and 13th Street North – Maize, is a dentist office located across (southwest approximately 200- feet) Maize from the site and an excavation company located to the west of the dentist office. The dentist office is a result of SCZ –0748 an approved change for "NO" Neighborhood Office zoning from "SF-20" zoning. The MAPC and the BCC approved the zoning in 1997. The development is located on approximately 1.35 acres, has access onto Maize Road and is non-residential in character. The excavation company was approved by the MAPC and the BCC in 1973 as CU-156. Both properties are now in the City.

The proposed zoning change of the property to "NO" zoning would trigger parking, landscaping, lighting and screening in accordance with the zoning code. The applicant has provided a site plan showing the proposed development. The proposed development, as shown on the site plan and other exhibits submitted by the applicant, is in character with the surrounding single family residential development and shows screening, landscaping, & parking. Revisions will need to be made to remove parking from the front and extend the landscape buffer on the east side of the site.

CASE HISTORY: The property was platted as the Graf – Goldston 2nd Addition and recorded in 1996.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5" Single Family Residential	single-family, church
SOUTH:	"SF-5" Single Family Residential	single-family
EAST:	"SF-5" Single Family Residential	single family
WEST:	"SF-5" Single Family Residential	undeveloped, church, office
	"NO" Neighborhood Office	

PUBLIC SERVICES: The property is located along Maize Road, at this point a 4-lane paved street with a center turn lane. It is designated as a 4 lane arterial. Bella Vista is a residential street. There are no traffic counts at this intersection, but traffic along Maize going north to 21st Street North is 9576 ATD and 12042 ATD going south to 13th Street North. The subject property has one drive entrance onto Bella Vista and complete access control along Maize, per the Plat. Public water and sewer services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this property as being "low density residential". The Graf – Goldston 2nd Addition is low density residential, with the possible exception of the subject property.

"Office Locational Guidelines" of the *Comprehensive Plan* include (1) being located adjacent to arterial streets; (2) having local, service-oriented offices incorporated within or adjacent to neighborhood and community scale commercial development, and (3) having low-density office use as a transitional land use between residential uses and higher intensity uses. The proposed zoning change to "NO" with a "PO" meets these guidelines

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the zoning change from "SF-5" Single Family Residential to "NO" Neighborhood Office be APPROVED, subject to the following Protective Overlay.

1. The property shall be developed with a building that has exterior walls of brick and/or wood and a double-pitched gable or hip style roof.
2. One freestanding monument-type sign with materials matching the materials of the building not exceeding 6feet hieght.
3. The site shall be developed in general conformance with the revised site and landscape plans as approved by the Planning Director.
4. Permitted uses shall be restricted to single family residential, medical office or general office uses.
5. All setbacks shall remain as the current "SF-5" zoning standards or those that are dedicated on the Graf-Goldston 2nd Addition.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The subject property is in a developed residential subdivision, with adjacent churches, dentist office, excavation company and a cemetery. All of the adjacent zoning is "SF-5" Single Family Residential to the north, east, south and west, with two exceptions being the "NO" zoning for the dentist office and CU-156 - "GC" zoning for the excavation company. "LC" Limited Commercial zoning and development is located on the intersections of 21st Street North and Maize and of 13th Street North and Maize.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as residential in conformance to its current zoning of "SF-5" Single Family Residential. The property has been vacant since

being platting in 1996. Residentially zoned lots that are abutting arterials and adjacent to non-residential uses are more problematic to market for single-family residential development.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Within the limited uses in the "NO" Neighborhood Office district, the limited size of the subject property and the Protective Overlay the rezoning of this property should not adversely affect nearby properties. The site will also have to comply with all landscaping, buffering and other development requirements in the zoning code.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan shows this site to be appropriate for "low density residential" and adjacent to "commercial" use. The subject property is on the edge of the mid-mile location criteria for non-residential zoning. One of the purposes of the "NO" district is to be a very low -intensity office use that is compatible with nearby residential use.
5. Impact of the proposed development on community facilities: Water and sewer would not be negatively impacted by the zoning change. The Plat allows for one opening from this site onto Bella Vista, the traffic generated by "NO" Neighborhood Office zoning/development would be minimal. Traffic generated by office use is 11 ATD per 10,000 square-feet compared to 10 ATD for single family residential of 10,000 square feet. The difference in traffic will be minimal.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **ANDERSON** seconded the motion, and it carried (9-0).

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9. **CON2002-12** - James K. Snook (owner/applicant); PEC, P.A., c/o Gary Wiley (agent) requests a conditional use for a "borrow pit" to remove fill dirt from 24 acre site on property described as:

That part of the southeast quarter of Section 14, Township 28, South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, lying west of the MOPAC Railroad Right-of-Way, now Kansas Southwestern Railroad, and easterly of the Wichita-Valley Center Floodway as condemned in case A-30410. Generally located south of MacArthur and west of West Street.

BACKGROUND: The applicant requests a Conditional Use to allow the excavation of approximately 450,000 cubic yards of fill material to be used on local construction projects. The subject property is zoned "LI" Limited Industrial. The Unified Zoning Code defines the excavation of fill material as "Mining and Quarrying", which may be permitted as a Conditional Use in the "LI" Limited Industrial zoning district. The subject property is 24.74 acres in size and is unplatted and used for agriculture.

The subject property is located southwest of the MacArthur and West Street intersection and is located immediately south of an existing site for the excavation of fill material that also is owned by the applicant. Adjacent properties to the north, south, and east are zoned "LI" Limited Industrial and are used for a variety of industrial and agricultural uses. The subject property borders the Big Ditch along its western boundary, and the subject property is separated from adjacent properties to the east by a rail road track.

The applicant intends to excavate fill material from the site to a depth of 20 feet, as indicated on the attached site plan. Although the property is within an area identified as being prone to shallow groundwater, the applicant indicates that groundwater is not present at a depth of 20 feet. This is supported by the excavation area to the north, which has been excavated to a depth of 20 feet and has not exposed groundwater.

At this point in time, there is not an identified post excavation use. The applicant does not anticipate that a lake or pond will result with the excavation. The site is wedged in between the Big Ditch and a railroad track, which further complicates redevelopment. The applicant has not submitted a redevelopment plan, and in the opinion of planning staff, it is appropriate in this instance that a redevelopment plan not be required since the property is zoned "LI" Limited Industrial and could not be redeveloped with residential uses as excavation sites are typically redeveloped.

Access to the site is proposed to be through the existing fill material excavation site located immediately north of the subject property and owned by the applicant. The existing fill material excavation site has access to Broad Street, a local road that accesses MacArthur two blocks north of the site. Setbacks for the excavation area are proposed to be 50 feet on the east, 75 feet on the north, and 140 feet on the west. The property is triangular-shaped with no southern lot line for which to provide a setback.

CASE HISTORY: A conditional use (CU-403) for the excavation of fill material and a rock crusher on the applicant's property north of the subject property was approved on August 28, 1996.

ADJACENT ZONING AND LAND USE:

NORTH:	"LI"	Excavation of fill material, rock crusher
SOUTH:	"LI"	County Public Works maintenance yard
EAST:	"LI"	Agriculture
WEST:	R.O.W.	Big Ditch

PUBLIC SERVICES: The subject property will access MacArthur, a two-lane arterial street, via a two block stretch of Broad Street. MacArthur at this location has current traffic volumes of approximately 5,500 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on MacArthur will increase to approximately 15,500 vehicles per day. The 2030 Transportation Plan indicates that MacArthur will need to be widened to four lanes to support the increased traffic volumes. Municipal water and sewer

services are not available to serve the subject property; however, the proposed use of the subject property does not require these services.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the Wichita-Sedgwick County Comprehensive Plan identifies this property as appropriate for "Industrial" development. The proposed use of the subject property is consistent with the "Industrial" land use designation. The Unified Zoning Code lists 23 conditions with which "Mining or Quarrying" must comply. These conditions exist for public safety and to mitigate any negative effects the extraction may have on surrounding properties. Should the MAPC recommend modification of these conditions, as is recommended in this case, then the request must be forwarded to the County Commission for a final decision.

RECOMMENDATION: With the proper conditions in place, this proposal should not have a detrimental affect on the surrounding properties, as they are developed with industrial and agricultural uses, or are well buffered from the site by the Big Ditch. The recommended conditions should mitigate potential negative impacts caused by this Conditional Use. Required permits and drainage plans should further ensure the safe operation of the Conditional Use. Existing services are adequate for the proposed Conditional Use. For these reasons and based on information available prior to the public hearings, planning staff recommends that the Conditional Use request be **APPROVED**, subject to the following conditions:

1. The requirements of Section III.D.6.gg. of the Unified Zoning Code (attached) shall be met with the exception of #3 and #5, which are not applicable in this case.
2. The approval of the Conditional Use is for a period not to exceed 10 years from the date of approval by the MAPC or governing body, as applicable.
3. The maximum depth of excavation shall not exceed 20 feet. If groundwater is encountered during the excavation, the applicant shall notify the Health Department within 3 working days to establish a new maximum depth of excavation to prevent the exposure of groundwater.
4. Documentation that all applicable local, state, and federal requirements (i.e., covenants, drainage plan, etc.) necessary for the extraction operation shall be submitted to the Planning Department prior to the issuance of the resolution authorizing the Conditional Use.
5. Any violation of the conditions of approval shall declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the application area are zoned "LI" Limited Industrial and are used for a variety of industrial and agricultural uses, including the extraction of fill material and rock crushing. The character of the area is industrial. The proposed use of the subject property is consistent with the zoning, uses, and character of the neighborhood.

2. The suitability of the subject property for the uses to which it has been restricted: The application area could be developed with a variety of industrial uses, but the property's poor access and proximity to an existing fill material excavation area make it suitable for the proposed use.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The conditions provided in the Unified Zoning Code for this Conditional Use should prevent any detrimental affect on nearby property. These conditions work to mitigate any negative dust, noise, or environmental effects. The fencing requirement should prevent trespassing and accidents on this property.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide" of the Wichita-Sedgwick County Comprehensive Plan identifies this property as appropriate for "Industrial" development. The proposed use of the subject property is consistent with the "Industrial" land use designation.

5. Impact of the proposed development on community facilities: Traffic to and from the requested Conditional Use at this location will increase the daily trips on the nearby section of MacArthur; however, this increase should not exceed the safe capacity of this road.

SCOTT KNEBEL Planning Staff, presented staff report and discussed the waivers that are being requested in the conditions.

GARY WILEY I am going to be retiring and he has enjoyed working with you.

MICHAELIS It has been a pleasure working with you and it is a pleasure.

JOHNSON I want to second that.

HENTZEN I want to tell you Gary you are a class guy

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **GAROFALO** seconded the motion, and it carried (9-0).

10. **CON2002-11** - RAW LLC c/o Lindy Andell requests a conditional use for vehicle and equipment sales outdoors on property described as:

That part of Lot 1, Silver Spur East, an Addition to Wichita, Kansas, Sedgwick County, Kansas described as beginning at the Northwest corner of said Lot 1; thence East 105 feet; thence South 275 feet; thence W 115 feet; thence Northerly along the West line of said Silver Spur East Addition to the point of beginning. Generally located southeast corner of the Harry and Rock Road intersection, 8100 E. Harry.

BACKGROUND: The applicant, RAW LLC, is requesting consideration to amend CU-500. CU-500 allowed used car sales on this site, which is zoned "LC" Limited Commercial, with conditions attached to its approval. The property is located on the southeast corner of the Harry – Rock Road intersection, at 8001 E Harry and contains 0.68 acres. Two conditions of approval for CU-500 have changed, which necessities the amendment.

Condition #6 stated: The conditional use will terminate if Winfield Motor Company ceases to operate at this location or has a change of control within the motor company. Winfield Motor Company is no longer associated with this site. Rock Chevrolet will be the operating at this site.

Condition #13 stated: The approval of the conditional use shall be for a 3-year time period beginning on May 4, 1999. The applicant is requesting an unlimited time period for the conditional use.

Currently the site is vacant. Current landscaping is not in compliance with the approved landscape plan for CU-500; not all the landscaping has been planted and some that was planted is dead.

Land adjoining the application area is zoned "LC" Limited Commercial, "B" Multi-Family, "SF-5" Single Family Residential and "GO" General Office. The development in the area reflects the permitted uses in the zoning, which includes restaurants, convenience stores, gas stations, apartments, offices, churches and single family residential. The nearest outside car sales lots are located approximately 1 1/2 miles to the northeast and northwest of the Kellogg – Rock Road intersection. A car lot has been developed on General Commercial zoned property 3 miles north and another at the further north at the Rock Road – K-96 intersection.

CASE HISTORY: The Silver Spur East Addition was entered on transfer record in 1957. BZA 11-75 approved a use exception to permit a U-Haul trailer rental. Conditions of approval were a 15-ft x 40-ft display area, a maximum of 6 trailers to be displayed, with the largest trailer allowed to be no more than 6-ft x 12-ft, paved display area, no signs to project over the ROW, lights were to be shielded and no outside loudspeakers to be utilized. BZA 97 permitted a car wash. V-0946 vacated a portion of the platted building setback. CU-500 for the outside sale of cars had numerous deferrals, hearings, and appeals and was ultimately approved by the WCC, 4-2, on May 4, 1999.

ADJACENT ZONING AND LAND USE:

NORTH:	"B" Multi-Family Residential	Apartments
	"LC" Limited Commercial	service station, retail
	"SF-5" Single Family Residential	Single Family Residential
EAST:	"LC" Limited Commercial	office -retail
	"GO" General Office	office-retail
	"SF-5" Single Family Residential	multi-family
SOUTH:	"LC" Limited Commercial	Strip shopping, office, multi-family
WEST:	"LC" Limited Commercial	Strip shopping centers

PUBLIC SERVICES: Harry is designated, in the 2030 Transportation Plan, as a 5-lane arterial street on the east side of the intersection and a 6-7 lane arterial on the west side. Rock Road is designated as a 6-7 lane arterial at his location/intersection. None of the widening to meet these standards is programmed in the approved CIP. There are turn lanes and decel lanes on all four sides of the intersection. The estimated traffic volume of (ADT) trips per day at the Harry – Rock Road intersection is 26735 ADTs on the west side, 26361 ADTs on the north side, 21246 ADTs on the east side and 23441 ADTs on the south side. Water/sewer and other municipal services are provided to the site.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide, as amended in 2002, of the Wichita – Sedgwick County Comprehensive Plan identifies this property as Commercial. The current zoning of the site is "LC" Limited Commercial. The Unified Zoning Code requires a Conditional Use for vehicle and equipment sales, outside in "LC" Limited Commercial zoning. The Wichita – Sedgwick County Comprehensive Plan, as amended by Resolution 5-02, directs the location of auto sales lots and other types of infrequent purchase or non-neighborhood serving commercial uses to areas (existing or planned) containing similar uses and away from neighborhood commercial areas. CU-500 allowed the outside sale of cars on this site.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED with the following conditions:

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of new and used cars and light trucks. No sale of trailers and no rental of trailers or u-haul type of vehicles are permitted.
2. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
3. Vehicle sales use of the lot shall be in conformance with the site plan, except that the driveways shall be limited as indicated on the approved landscape plan.

4. The applicant shall install and maintain landscaping in accordance with the approved landscape plan that was submitted with the CU-500 application. No display is permitted in landscape areas.
5. Parking barriers shall be installed and maintained along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way. A low fence type barrier constructed of wrought iron or other materials approved by the Planning Director may also be used for this purpose. All existing parking surfaces of concrete, asphalt, or asphaltic concrete shall be in good repair and maintained.
6. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons. The attached wall signs on the south 'service building' shall be removed and new signage shall be limited to reflect current ownership and the building's use. No more than one sign is permitted on each frontage and if either sign is replaced it will be with a sign no larger or taller than the existing sign on Rock Road.
7. There shall be no use of elevated platforms for the display of vehicles.
8. No amplification system shall be permitted.
9. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
10. If either building is repainted it will be in a muted tones only, and all building walls of both buildings and of sign supports shall be painted with the same colors at that time.
11. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is zoned "LC," SF-5", "GO" and "B". The existing businesses in the immediate neighborhood are local retail in character, however the larger Rock Road corridor contains a broader variety of commercial uses. There are established residential developments adjacent to the site on the north and east sides.
2. The suitability of the subject property for the uses to which it has been restricted: Rock Road is one of the main retail corridors in the City and the site could be developed with one of the many "LC" permitted uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. Past usage as a Conditional Use for outside car sales on this site has shown the impact to be minimal, except for non-conformance with the required landscape plan.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The current zoning of the site is "LC" Limited Commercial. The Wichita – Sedgwick County Comprehensive Plan, as amended last year, directs the location of auto sales lots and other types of infrequent purchase or non-neighborhood serving commercial uses to areas (existing or planned) containing similar uses and away from neighborhood commercial areas. Considering the recent development of one car lot and the approval of another one to the north on Rock Road and considering the development of industrial warehouse, big-box retail and other such uses along Rock Road, this corridor has less of a neighborhood –serving character than other locations where car lots have been determined to be out of character.

BILL LONGNECKER Planning Staff. Want to address the D.A.B. recommendation. The five year term is the lease. What staff recommended is no time limit. D.A.B. wants five year term.

MICHAELIS Is that something we can do? We cannot tie the CU to the applicant.

KROUT You could do a time limit because the DAB recommended it, or if the applicant agrees to that here.

LONGNECKER There was a 5 year term.

KROUT If you put a time limit on it, we don't feel we can lift the time limit administratively.

MICHAELIS Let's do this: have the applicant say he knows about the five year term.

DOUG MARYETT We agree with the five year time limit for Rock Chevrolet, knowing that we will have to reapply at that time.

BARFIELD Condition #10 I don't recall having seen that before.

LONGNECKER These are new conditions. I did look at CU 500 and there was similar language you see in these conditions about the color.

BARFIELD Is the applicant acceptable to this?

MARYETT Yes.

MICHALIS What are "muted tones"?

KROUT A color wheel, There is something with hundreds of colors on it called and it indicates the value of the color including how muted it is by adding white or black.

MICHALIS Who makes that decision?

KROUT I take hours looking at every car lot.

BISHOP I know that there has been some concern that the conditions for the original car lot have not been met. I have spoken with the neighbors because I live in this neighborhood. With all the enhancements to Rock Road in five years, it may be different at that time.

HENTZEN Is the five year limitation included as part of the staff recommendation.

KROUT No, we are not recommending a time limit. I am hoping never to see this case again.

BISHOP It would have to be part of the motion.

JOHNSON What about if someone else takes over the property, they must agree to the five year term as well?

KROUT Yes.

MOTION: To approve with a five year limit on this particular use. This conditional use will expire in 5 years.

BISHOP moved, **BARFIELD** seconded the motion.

SUBSTITUTE MOTION: To approve as per staff comments.

MARNELL moved, **HENTZEN** seconded the motion, and it carried (5-3); **GAROFALO, BARFIELD AND BISHOP** OPPOSED).

11. **A02-04 The City of Wichita seeks the unilateral annexation of properties generally located north of 21st Street North, east and of west of Hoover.**

MOTION: To approve, subject to staff comments and citing the findings in their report.

HENTZEN moved, **GAROFALO** seconded the motion, and it carried (9-0).

12. **Consider the adoption of the Fiscal years 2002-2007 Transportation Improvement Plan (T.I.P.) for the Wichita-Sedgwick Metropolitan region.**

MEHTA Planning Staff: The Technical Advisory Committee at its April 1, 2002 meeting recommended approval of these projects. Staff recommends the adoption as submitted.

We provided a copy of the proposed TIP for discussion at the previous meeting April 4, 2002. The documents includes transportation projects from the C.I.P. of the City of Wichita and Sedgwick County, including transit and airport projects, as previously approved by both governing bodies. Highway projects sponsored by KDOT and paratransit project as chosen by KDOT are also included. This document covers years 2002 through 2007 and costs \$1.03 billion.

At the technical advisory committee meeting, it was pointed out that there was some surplus in 2004, and there was discussion about new projects—one being widening of 71st Street South between Broadway and the turnpike in Haysville; and then being money for carpooling activities by the Transit department. Another possibility is to extend the proposed Hoover Road improvement to connect to Kellogg. We will come back with any TIP amendments at a better date.

It is in the Internet web site. What you are approving today is not just the two page document today but what we distributed two weeks ago.

ANDERSON From your presentation I understand most of these are in the CIP and other documents, therefore they are going to be financed by the local share, this is for the federal dollars. What about transit? Has WCC approved that this be financed by federal funds?

MEHTA Transit funds are two kinds of funds, discretionary funding. They may be approved or disapproved but if they are approved by the governing body here, then we would put it at the back end of this document. If we have the federal documents and the local match, it is in the TIP

ANDERSON The City CIP would match what we will approve here today? There is nothing not already approved?

MEHTA There are some here, yes.

ANDERSON In order to implement those federal funds the City has to do that, right?

MEHTA The City submits to the federal level.

KROUT I think there was enough money from the federal STP program; and how to spend it, Jamsheed had showed at the last meeting.

ANDERSON I think it is a good process. I just feel that there needs to be more input from citizen involvement.

KROUT Generally, these projects have been approved already by the City Council or County Commission. But from time to time you may be asked to decide between 2 cities with competing projects.

BISHOP What does TOC mean?

MEHTA Transit Operation Center

BARFIELD Railroad overpasses, where are they?

MEHTA It is in the larger document you got two weeks ago.

BARFIELD They are not using federal funds?

MEHTA Yes they are. They are not using the three categories shown in the TIP. I am not sure what funds the formula comes from though.

BISHOP What is under Wichita Roads, Neighborhood Improvement/Various.

MEHTA \$12 million, those would be special assessments, and that is in the City CIP.

ANDERSON It makes it easier to understand. Under the CIP, they show the local dollars and the federal dollars and, this a vital part of that document.

MOTION: to approve.

JOHNSON moved, **ANDERSON** seconded the motion, and it carried (9-0).

The Metropolitan Area Planning Department informally adjourned at 5:10 p.m.

State of Kansas)
Sedgwick County) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2002.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)